THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 21030 of 2007

Dated: 22.10.2007

Between:

Mahesh Kumar Kandodia

... Petitioner

AND

State of Andhra Pradesh, rep., by its
Secretary, Medical and Health Dept.,
Government of Andhra Pradesh,
Secretariat Buildings, Hyderabad & others.

... Respondents

Counsel for the petitioner : Shri R.V. Nagabhushana Rao

Counsel for the respondents : Government Pleader for Medical and Health.

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ORDER:-

This writ petition is filed for a writ of Mandamus to declare the action of respondent No.1 in dismissing the interlocutory application filed by the petitioner seeking suspension of the order impugned in Appeal No.018740 of 2007, as illegal and arbitrary.

The petitioner is a dealer in sale of drugs. A show cause notice was issued by respondent No.2 on 16.07.2007 wherein it was alleged that the petitioner sold Zoylex injection 500 mg to M/s. V.H.C. Pharmacy, Secunderabad and that during the inspection of sales by respondent No.2, he noticed that an invoice in the name of M/s. V.H.C. Pharmacy bearing No.RP 3597 was raised for the purpose of selling the said injection. It was further alleged that M/s. V.H.C. Pharmacy informed in their letter dated 08.06.2007 that they did not purchase the drug from the petitioner. On the ground that the petitioner sold the drug to an unauthorized person, his drug license was cancelled by the 2nd respondent by order dated 01.09.2007, after considering his explanation dated 28.07.2007. The petitioner filed an appeal before respondent No.1 questioning the said order of cancellation. Along with the said appeal, the petitioner also filed an application for suspension of the order impugned in the appeal. The petitioner's grievance is that the said application was dismissed by

respondent No.1. Questioning the said order, the present writ petition is filed.

Sri R.V. Nagabhushana Rao, learned counsel for the petitioner submitted that the order of respondent No.1, dismissing the application for interim suspension of the order passed by respondent No.2, was not supplied to the petitioner. He submitted that the petitioner availed the statutory remedy of appeal against the order canceling the license on a trivial ground that he has sold one Zoylex injection to an unauthorized person. He submitted that the 1st respondent having entertained the statutory appeal ought to have suspended the order of respondent No.2 till the disposal of the appeal.

Though time was granted, respondents have not filed counter-affidavit so far. Since the writ petition is filed against an interlocutory order, I deem it appropriate to dispose of the writ petition itself.

On the petitioner's own showing the appeal is pending and this Court, while ordering notice, suspended the order of respondent No.2.

In the facts and circumstances of the case, I deem it just and proper to direct respondent No.1 to dispose of the appeal filed by the petitioner against order 01.09.2007 of respondent No.2 within a period of six weeks from today after giving notice and opportunity to the petitioner. Pending disposal of the appeal, the interim suspension granted by this Court on 05.10.2007 shall continue.

Subject to the above, the writ petition is disposed of. No order as to costs.

As a sequel to disposal of the writ petition,

WPMP.No.27275 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

Date: 22.10.2007
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